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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,271	10/20/2003	Ronald Michalski	71-844-1	3786

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EXAMINER

CHAN, SING P

ART UNIT PAPER NUMBER

1734

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/688,271	Applicant(s) MICHALSKI ET AL.	
	Examiner Sing P. Chan	Art Unit 1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-15, 17-21, 24 and 25 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-15, 17-21, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the abstract is more than 150 words. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 10-15, 17-21, 24, and 25 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a height determination plate and an ultrasonic sensor to determine the distance between itself and the height determination plate, does not reasonably provide enablement for a broader limitation of a contact member and a sensor means. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims. The claims recite a broader limitation of a contact member and a sensor means but the specification only discloses a height determination plate as the contact member and an ultrasonic sensor as the sensor means and does not disclose any other example of contact members or sensors for the apparatus. Therefore, these claims are broader in scope than the specification.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10, 11, 18-21, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winn, deceased (U.S. 5,168,883) in view of Poulsen (U.S. 3,894,380).

Regarding claims 10, 11, 24 and 25, Winn discloses a method of applying tax stamps to cigarettes in cartons. The method includes providing a carton opening station between height determination station and tax stamp application station to open the cigarette cartons and a cigarette cartons closing station for closing the cigarette cartons after the tax stamps are applied (Col 3, lines 53-64 and Col 4, lines 55-61), a conveyor to convey the different cigarette cartons, determining the height dimension of the cigarette cartons, providing a tax stamp applicator at a cigarette package tax stamp application station, and automatically adjusting the height of the applicator corresponding to the determined height of the carton to properly apply individual cigarette tax stamp onto individual cigarette packages, and a motor, i.e. a servo drive, is used to automatically adjust the height of the case-packing mechanism to case height. (Col 3, lines 24-51, Col 4, lines 5-54, and Col 5, lines 41-50) Winn is silent as to automatically adjusting the height of the closing means to the height dimension of the carton, the height determination means comprising a contact member and a sensor.

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However, providing a contact member and a sensor for determining the position of the contact member on the upper surface of the carton or box and adjusting the height of the closing portion of the apparatus is well known and conventional as shown for example by Poulsen. Poulsen discloses a method for box sealing and closing. The apparatus includes a height sensing means comprising of sensing arm (34) bent into an L-shaped formation and a finger member is swingably mounted on the free end for contacting the leading or front upper flap of the box (Col 4, lines 28-36), which is a functional equivalent of a horizontally oriented contact plate, wherein the arm moves up or down to press downwardly until the true height of the box is determined (Col 9, lines 17-23), and a sensing unit (37) providing a signal to a logic system (96) of the position of the arm to provide height data to the logic system (Col 9, lines 17-35), moving the gluing portion of the apparatus from point to point to the next position for the next box or carton to be closed (Col 11, line 66 to Col, 12, line 3)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a height sensing means comprising a contact member movable up and down to contact upper surface of the carton or box and a sensor means for sensing the position of the contact member as disclosed by Poulsen in the apparatus of Winn to allow two or possibly three boxes passing through the system at a greatly increased output. (See Poulsen, Col 11, lines 57-60)

Regarding claim 18, Winn discloses a pair of pinch bars squeezes the carton and pops up the flaps, i.e. domed upward, and insert a plow knife to open the flaps. (Col 3, line 57 to Col 4, line 4)

Regarding claim 20, Winn discloses the closing station includes a glue trough, a glue applicator wheel for applying glue to the undersurface of the upper carton flap, flap closer, and a pressure plate and roller for pressing the flaps closed. (Col 4, line 55 to Col 5, line 6)

Regarding claim 21, Winn discloses the stations are equally spaced and the conveyor includes pads equally spaced on the chain for pushing the cartons at equal predetermined distance through the equally spaced stations. (Col 3, lines 24-28 and Figure 1)

6. Claims 12-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winn, deceased (U.S. 5,168,883) in view of Poulsen (U.S. 3,894,380) as applied to claims 11 and 25 above, and further in view of Teegarden et al (U.S. 5,207,331).

Regarding claims 12, 14, and 17, Winn as modified above is silent as to the logic controller is a programmable logic controller. However, providing a programmable logic controller is well known and conventional as shown for example by Teegarden et al. Teegarden et al discloses a method of conveying boxes or cartons of various sizes. The method includes providing a programmable logic controller with memory of the height dimension of the cartons, which is programmed to perform the requisite logic functions for the producing the controls, fixed sensors arrays connected to the PLC for sensing and determining the height of the container and to perform the control function such as adjusting the height of a lift with controls of the hydraulic lift asynchronously, i.e. independent of the disposition of the height determination means. (Col 9, lines 30-36, Col 12, lines 37-60 and Col 19 line 63 to Col 20, line 32)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a programmable logic controller with memory of the height dimension of the cartons connected to sensors arrays and to program the PLC to perform the logic function in response to input from sensors as disclosed by Teegarden et al in the method of Winn as modified by Poulsen to provide a fully automated process (Col 25, lines 59-61) and requiring only minimal operator attention and intervention (Col 25, lines 67-68).

Regarding claim 13, Winn discloses the stations are equally spaced and the conveyor includes pads equally spaced on the chain for pushing the cartons at equal predetermined distance through the equally spaced stations. (Col 3, lines 24-28 and Figure 1)

7. Claims 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winn, deceased (U.S. 5,168,883) in view of Poulsen (U.S. 3,894,380) as applied to claim 24 and 25 above, and further in view of Baker et al (U.S. 4,263,766).

Winn discloses the stamping station includes a roll stamps holder for supporting the roll of stamps, linearly longitudinally moving the tax stamp applicator in incremental steps to place the stamping head onto the tax stamp paper with rows of tax stamps and transfer the tax stamp onto the cigarette cartons. (Col 4, lines 20-54) Winn is silent as to the stamping head includes longitudinally spaced stamping shoes. However, providing longitudinally spaced stamping shoes is well known and conventional as shown for example by Baker et al. Baker et al discloses a method of applying tax stamp onto the cigarette cartons. The method includes providing a stamp head with

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longitudinally spaced stamping plate elements, i.e. stamping shoes, which heat the individual stamp on the tax stamp paper. (Col 11, lines 20-27)


It would have been obvious to one ordinary skill in the art at the time the invention was made to provide longitudinally spaced stamping shoes, which heat the individual stamp on the tax stamp paper as disclosed by Baker et al in the method of Winn as modified by Poulsen to provide a method of applying stamps to any size cartons with a machine that is easily and quickly adapted to any size carton. (See Baker et al, Col 3, lines 58-66)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P. Chan whose telephone number is 571-272-1225. The examiner can normally be reached on Monday-Thursday 7:30AM-11:00AM and 12:00PM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A. Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


SPC

CURTIS MAYES
PRIMARY EXAMINER
